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**Date Sent:** September 14, 2004 **Time Sent:** 8:50 a.m. (Pacific)  
**Recipient:** James Hewitt, examiner  
Art Unit 3679  
**Facsimile No:** (703) 872-9306  
**Sender:** Mark D. Miller, Esq.  
**Number of pages transmitted, including this cover sheet:** 4  
**Client/File:** Serial No. 10/716,247 (Our Docket 9241.03)  
**Operator:** Mark D. Miller  
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**Message:**

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

In Re Application of: )

MORTON, FARAH )

Serial No. 10/716,247 )

For: PORTABLE INFANT BED )

Filed: November 17, 2003 )

Art Unit: 3679

Examiner: Hewitt, James M.

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Signed: \_\_\_\_\_

Mark D. Miller

**STATUS REPORT AND INQUIRY  
IN REISSUE APPLICATION (MPEP § 1410)**

Commissioner for Patents  
5 Alexandria, VA 22313

Dear Sir:

This inquiry is submitted to determine the status of the above-captioned reissue application. This application was published on March 16, 2004, and has been docketed and  
10 ready for examination since May 18, 2004. It is entitled to priority status in accordance with  
37 C.F.R. § 1.176(a) and MPEP §§ 1440, 1442 without the filing of a separate petition

Serial No. 10/716,247

1

because it is in litigation and the applicant specifically requested examination (not suspension) upon filing pursuant to MPEP § 1442.02(D).

37 C.F.R. § 1.176(a) provides in pertinent part that "Applications for reissue will be acted on by the examiner *in advance of other applications.*" (Emphasis added.)

5 MPEP § 1442 provides in pertinent part that "All reissue applications are taken up 'special' and remain 'special' even though applicant does not respond promptly. ... Furthermore, *reissue applications involved in litigation will be taken up for action in advance of other reissue applications.*" (Emphasis added.)

10 MPEP § 1440 provides in pertinent part that "Reissue applications with related litigation will be acted on by the examiner *before any other special applications*, and *will be acted on immediately by the examiner*, subject only to a 2-month delay after publication for examining reissue applications; see MPEP § 1441." (Emphasis added.)

15 In accordance with the above, since the 2-month delay period has run, it is respectfully requested that examination of the above-captioned reissue application be commenced as soon as possible.

Status Report: All briefing on the appeal from the judgment of non-infringement has now been submitted to the Court of Appeals for the Federal Circuit, Case No. 04-1308. A date for oral argument is expected to be set before the end of the year.

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Any inquiries regarding this application should be directed to the undersigned.

Serial No. 10/716,247

2

Dated: September 14, 2004

Respectfully Submitted,

By



MARK D. MILLER

No. 32,277

Customer No. 25265

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Serial No. 10/716,247

3

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